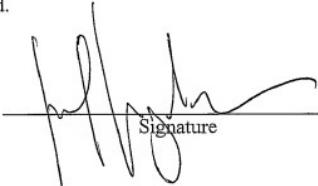


<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number CQ10184
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 09/788,603	Filed February 21, 2001
	First Named Inventor Elin R. PEDERSEN	
	Art Unit 2173	Examiner Ting ZHOU
MOUNTAIN VIEW OFFICE <b>23493</b> <small>CUSTOMER NUMBER</small>		
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reason(s) stated on the attached sheets.</p> <p>Note: No more than five (5) pages may be provided.</p>		
<input checked="" type="checkbox"/> I am an attorney or agent of record. Registration number <u>48,205</u>		
 <u>Pavel I. Pogodin</u> <small>Typed or printed name</small>		
<u>(650) 625-8100</u> <small>Telephone number</small>		
<u>August 6, 2007</u> <small>Date</small>		

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: CQ10184

Elin R. PEDERSEN, et al.

Appln. No.: 09/788,603

Group Art Unit: 2173

Confirmation No.: 4550

Examiner: Ting ZHOU

Filed: February 21, 2001

For: A METHOD AND APPARATUS FOR MANAGEMENT AND REPRESENTATION OF DYNAMIC CONTEXT (as amended)

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**MAIL STOP AF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated April 5, 2007, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue. Claims 1, 3-4, 9-11, 13, 18-20 and 22-25 stand rejected under 35 U.S.C. 102(b) as being allegedly anticipated by Pinard (U.S. Patent No. 5,898,432). Applicants respectfully submit that this rejection is improper. Specifically, independent claims 1 and 11 recite, among other limitations, "determining the user's focus of attention and selecting at least one of the at least one representation elements based on the user's focus of attention." On the other hand, Pinard teaches a single cursor that can take a variety of shapes such as to inform the user of the occurrence of a function. This teaching is drastically different from the aforesaid limitations of claim 1. First, the cursor shape in Pinard is selected

not based on the focus of attention of the user, but based on the occurrence of a specific function. Second, in Pinard, the user always focuses his or her attention on the cursor. Thus, no determination of the user's focus of attention is performed and no representation elements are selected based on the determined user's focus of attention. In the Advisory Action, the Examiner alleges that Pinard selects at least one of the at least one representation elements based on the user's focus of attention by positioning the icon at the last cursor location, on which the user focused his or her attention. This Argument is without merit because Pinard simple positioning of the new icon at the last cursor location does not involve the claimed step of selecting of "at least one of the at least one representation elements based on the user's focus of attention."

In more detail, Pinard discloses a method for indicating to a user of a terminal which includes a display, of the occurrence of a specific function. The notification is performed using a cursor icon on the display movable by a user, which is normally used by a user just like an ordinary cursor. Upon the occurrence of a specific function, the form of the cursor changes such as to inform the user of the occurrence of that function. To this end, the cursor changes to an icon or to include an icon related to the function. The position of the cursor does not change. For example, upon the receipt of a telephone call, the cursor changes to include an image of a telephone set, see Pinard, Fig. 3 and col. 4, lines 5-10.

Pinard emphasizes that his system is based on the assumption that user always positions the cursor at the very center of its attention. At col. 3, lines 34-40, Pinard states: "It is important to recognize that the user positions the cursor at a location where the user's attention is focused. Intensity of the focusing of the attention is often so strong at the cursor position that the user can miss the change in an icon or the introduction of a new icon on the display caused by another

function which is not under immediate control by the user.” Pinard further states: “Since the icon related to the function is at the focus of attention of the user, it is virtually impossible to ignore or be overlooked by the user,” see Pinard, col. 3, lines 59-61. Thus, in Pinard, the selection of varying representation elements (mail icon, fax icon, telephone icon, etc.) depends only on the occurred function and does not depend on the focus of attention of the user, as in Pinard, the user’s attention is always focused on the cursor, see Pinard, col. 3, lines 59-61. The selected representation elements are always attached to the cursor, which is always in the user’s center of attention. In other words, in Pinard, the icons incorporated into the cursor carry the information on the occurred function and, therefore, the appearance of these icons dependent only on the function itself and not on the user’s focus of attention. In addition, simple positioning a new icon at the last cursor location also does not involve the claimed step of selecting of “at least one of the at least one representation elements based on the user’s focus of attention.” When the icon is simply positioned in appropriate location of the screen in Pinard, no claimed selection is made.

On the other hand, the independent claims 1 and 11 specifically recite a feature of the invention, wherein at least one of representation elements used in informing the user about events is selected based on the user’s focus of attention. This feature of the invention is not taught or suggested by Pinard, which selects the representation element (mail icon, fax icon, telephone icon, etc.) based solely on the occurred function. Moreover, simple positioning the icon at the last cursor location also does not involve the claimed step of selecting of “at least one of the at least one representation elements based on the user’s focus of attention.” For this

reason, Pinard fails to teach or suggest all limitations of claims 1 and 11 and, therefore, these claims are not anticipated by Pinard.

With respect to rejection of dependent claim 3, the Examiner states that Pinard teaches the selected representation element is at periphery of user's focus of attention. The Examiner points to figures 2-5 in support of this bold assertion. In response, Applicants respectfully submit that Pinard teaches exactly the opposite. As stated above, the whole idea of pinanrd is based on the fact that user always positions the cursor at the very center of its attention. The portions of Pinard quoted by Applicants above clearly establish this fact. As to figures 2-5 cited by the Examiner, in those figures the cursor is shown right in the middle of the figure, which further indicates that it is at the center of attention of the user. The Examiner has failed to point to any language in Pinard that would support the Examiner's position.

In this regard, Applicants respectfully remind the Examiner that Pinard is the applied prior art and not the Examiner's assertions. When the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such teaching or suggestion appears in the reference. See *In re Rijckaert*, 28 U.S.P.Q.2d 1955, 7 (Fed. Cir. 1993). Thus, Pinard fails to teach or suggest the limitation of claim 3, wherein the selected representation element is at the periphery of the user focus of attention and, therefore, claim 3 is independently patentable over Pinard.

With respect to the rejection of dependent claims 3-4, 9-10, 13, 18-20 and 22-25, while continuing to traverse the Examiner's characterization of the teachings of the references used by the Examiner in rejecting these claims, Applicants respectfully submit that these claims are patentable by definition, by virtue of their dependence upon the patentable claims 1 and 11.

With respect to the rejection of dependent claims 5-8 and 14-17, while continuing to traverse the Examiner's characterization of the teachings of the references used by the Examiner in rejecting these claims, Applicants respectfully submit that these claims are patentable by definition, by virtue of their dependence upon the patentable claims 1 and 11.

Respectfully submitted,

Pavel I. Rogodin  
Registration No. 48,205

SUGHRUE MION, PLLC  
Telephone: (650) 625-8100  
Facsimile: (650) 625-8110

MOUNTAIN VIEW OFFICE  
23493  
CUSTOMER NUMBER

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